IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 9046 of 2005

Between:

M/s. Hotel park Lane Pvt Ltd, Situated at 115,

Park Lane, Secunderabad-3, represented

by its Director, Dundoo Ekmaber.

..... PETITIONER

AND

1 The Commissioner , Muncipal Corporation Of Hyderabad,
Tank Bund, Hyderabad.
2 The City Planner, Muncipal Corporation Of Hyderabad,
Tank Bund, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction of writ more particularly one in the nature of writ of Mandamus declaring the action of the Respondents in withholding the plan already sanctioned by the Respondents, in respect of premises M.C.H.No.'s 4-1-419 to 420& 420/1 to 420/6, situated at Troop Bazar, Hyderabad, despite compliance of all the requirements as contemplated under the rules governing the sanction of permissions for construction of building as illegal, unauthorized ,arbitrary and contrary to the provisions of Hyderabad Municipal Corporation Act, 1995 and the Rules made there under ,besides violative of principles of natural Justice and consequently direct the Respondents to release the sanctioned plan forthwith while declaring that the petitioner has already complied with all the requirements.

Counsel for the Petitioner: MR.P.PURUSHOTHAM REDDY

Counsel for the Respondent Nos.1 and 2: SMT.G.JYOTHI KIRAN & RAMARAO GHANTA

The Court at the stage of admission made the following:

ORDER:

Seeking Writ of Mandamus, declaring the action of the respondents in withholding the plan already sanctioned by the respondents in respect of premises M.C.H.No.4-1-419 & 420/1 to 420/6, situated at Troop Bazar, Hyderabad, despite compliance of all the requirements as contemplated under the rules governing the sanction of permissions for construction of building, as illegal, unauthorized, arbitrary and contrary to the provisions of Hyderabad Municipal Corporation Act, 1955, the present writ petition is filed.

It is submitted that the petitioner is the owner of the property mentioned in the writ petition, and with a view to develop the property into shopping complex, he applied for permission for construction of building in the year 1980 and the respondents granted permission vide proceedings dated 15.11.1980. But due to unfortunate litigation both internally and externally, the property could not be developed and due to afflux of time, the permission granted stands lapsed. Once again the petitioner applied for grant of revised plan with proposed alternations and additions. The petitioner already complied with the requirements as contemplated by the respondents in its proposal dated 01.04.2005 with several conditions. The petitioner agreed to surrender the required land for the purpose of road widening in future with free of cost, as per condition No.1. Further the respondent contemplated another condition i.e. Condition No.13 imposing obligation on the petitioner to hand over the land required for widening the road in future, after removing the existing structures for release of sanctioned plan. When the petitioner is unable to evict his tenants and hand over the vacant possession of the said land as per Condition No.13 of the proposal between the petitioner and the respondent Corporation, the respondents have not released the sanctioned plan. Therefore, the petitioner is constrained to file

this writ petition.

After receipt of notice in this writ petition, the respondents filed counter affidavit stating that admittedly the petitioner applied for permission in the year 1980 for construction of building and the respondent corporation granted permission by deleting the affected portion for the purpose of road widening and duly imposing the condition that the said affected portion shall be surrendered to the Corporation as per the master plan which was existing as on that date. In para-4 of the counter affidavit, the respondents categorically stated that the Corporation is ready and willing to release sanction plan provided the petitioner surrender the affected portion of the land duly demolishing the existing structure. It is a fact that the petitioner has submitted a representation requesting to release the plan and a suitable reply dated 26/28.01.2005 was given to the petitioner asking him to comply with the said condition No.13 of the proposal.

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent Corporation.

Admittedly, there is an agreement between the petitioner and the respondent Corporation with regard to release of sanction plan. One of the conditions in that proposal is that the petitioner shall hand over the vacant possession of the land, which was going to be affected in the process of road widening as stated above. The said portion of land consists shopping complex and was given to tenants on rental basis. Therefore, the petitioner is not able to evict his tenants and demolish the shops and hand over the physical possession of the said area to the respondent Corporation from 2004 and get release of the sanction plan from the respondent Corporation.

Having regard to the facts and circumstances of the case, I am of the opinion that the question of release of sanction plan does not arise unless the petitioner complies with the Condition No.13. Therefore, I am not able to grant the relief as prayed for in this writ petition. However, it is open for the respondents to release the sanction plan to the petitioner whenever the petitioner complies with the Condition No.13 of the proposal.

With the above observations, the Writ Petition is dismissed. No order as to costs.

ELIPE DHARMA RAO,J

Dated: 17.06.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Commissioner,

Municipal Corporation of Hyderabad,

Tank Bund, Hyderabad

2. The City Planner,

Municipal Corporation of Hydrabad,

Tank Bund, Hyderabad

3. Two CD copies

*Form-NIC-OGS/WP{**CTMP**}*